

### Remarks

Claims 1-26 are pending in the application. Claims 1, 4-7, 9-11, 14, 16, 18-22 and 25 are rejected under 35 USC 102(b) as being anticipated by Smits (U.S. Patent No. 6,125,115).

Smits provides a spatial mixing of audio signals to the user by applying some unspecified transform (col. 6, lines 17-23) to the received audio input signals. The discussion of the transforms applied does not necessarily indicate that the transform is a head-related transform function. Indeed HRTFs are generally associated with headphones, and the output of the system disclosed in Smits is for speakers, indicating that the transform applied is not HRTF. The user may select a stereo pan line as a possible transform, but the transforms are only applied after the user selection is made. Further, if the user selects stereo pan, only the stereo pan is applied (col. 7, lines 1-3, and col. 7, lines 35-39).

In contrast and as amended, claims 1, 9, 16 and 20 have been amended to more clearly point out that the user input is used to select between audio streams to which the transfer functions have already been applied, including HRTF, pan and mono-mixing. It must be noted that Smits does not disclose mono-mixing as an option. The application of the transfer functions and the a selection being used to produce an output stream has an advantage in that the user has more flexibility of when to select an output stream, as well as allowing changes. These amendments are supported in the specification on pp. 6-8 and Figures 2 and 3.

It is therefore submitted that claims 1, 9, 16 and 20 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 4-7 depend from claim 1 and inherently contain all of the limitations of that claim. As discussed above, the prior art does not teach, show nor suggest all of the limitations of the base claim, much less the further embodiments of the dependent claims. With regard to claim 4, Smits does not teach that the user input is used to select between

previously applied mixings, much less that the selection is made by a previously existing user profile. With regard to claims 5-7, Smits does not teach that the selection is between previously applied mixings, much less which mixing is selected. It is therefore submitted that claims 4-7 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 10-11 and 14 depend from claim 9 and inherently contain all of the limitations of that claim. As discussed above, the prior art does not teach, show nor suggest all of the limitations of the base claim, much less the further embodiments of the dependent claims. As Smits does not teach selecting from applied mixings, Smits does not teach that the selected mixing is HRTF, as in claim 10, pan mixing as in claim 11, or that the source of the user input is a user profile. It is therefore submitted that claims 10-11 and 14 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 18-19 depend from claim 16 and inherently contain all of the limitations of that claim. As discussed above, the prior art does not teach, show nor suggest all of the limitations of the base claim, much less the further embodiments of the dependent claims. Smits does not teach a network device that applies mixings and then uses a user input to select between them, much less that the user input is received through a user interface as in claim 18, or that there is a controller as the means to apply the mixings as in Claim 19. It is therefore submitted that claims 18-19 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 21-22 and 25 depend from claim 20 and should be ruled allowable for the reasons as applied to claims 10-11 and 14, discussed above. It is therefore submitted that claims 21-22 and 25 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 1, 3, 8, 9, 12, 13, 15, 20, 23, 24 and 26 are rejected under 35 USC 102(e) as being anticipated by Cohen (US Patent Application Publication No. 2003/0112947).

Cohen discloses a telephone conferencing system, in which a user input is used to set volume levels. The user can send DTMF tones (paragraph 0089) that control various volume configurations and selection of streams (paragraphs 0090, 0094 and 0095); such as altering the volume of one participant (paragraph 0097); having a private conversation by adjusting the volume of one participant and reducing the others (0098); bringing other users online (0099); adjusting volume depending upon the participants (0100); etc. Nowhere does the user input select between a HRTF mixing, a pan mixing or a mono-mixing already applied to the incoming audio signals to produce an output stream. The selections made through the GUI 600 in paragraphs 127-131 relate to these volume settings and the placement of the spatial streams, it does not select between HRTF, pan and mono mixes. Having equal weighting in both the left and right does not equal a mono mix. In a mono mix, there is no left and right.

As amended, claims 1, 9, and 20 require that the mixings be applied to the audio streams first, and then the user input is used to select between them. This is not shown, taught nor suggested by Cohen. It is therefore submitted that claims 1, 9 and 20 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 3 and 8 depend from claim 1 and inherently contain all of the limitations of that claim. As discussed above, the prior art does not teach, show nor suggest all of the limitations of the base claim, much less the further embodiments of the dependent claims. With regard to claim 3, the real-time user input in Cohen does not select which mix, it manipulates volume and placement, but does not select between three different mixes. With regard to claim 8, as discussed above, having equal weighting in a right and left channel is not the same as a mono-mix as discussed in the specification on page 5. It is therefore

submitted that claims 3 and 8 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 12-13, and 15 depend from claim 9 and inherently contain all of the limitations of that claim. As discussed above, the prior art does not teach, show nor suggest all of the limitations of the base claim, much less the further embodiments of the dependent claims. Claims 12 and 13 should be ruled allowable for the reasons as applied to claims 3 and 8. With regard to claim 15, having a default setting is not the same as receiving a user input from the equipment at the user's endpoint. A default setting is at the server in Cohen, it does not come from the user's endpoint. It is therefore submitted that claims 12-13 and 15 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 23-24 and 26 depend from claim 20 and inherently contain all of the limitations of that claim. As discussed above, the prior art does not teach, show nor suggest all of the limitations of the base claim, much less the further embodiments of the dependent claims. Claims 23-24 should be ruled allowable for the reasons as applied to claim 3 and 8. It is therefore submitted that claims 23 and 24 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 1, 2, 16 and 17 are rejected under 35 USC 103(a) as being unpatentable over Gentle (US Patent No. 6,816,360 in view of Connor et al. (US Patent No. 6,011,851).

As discussed in the office action, Gentle does not disclose applying a mixing function. Connor discloses applying a spatial function, but there is no selection between a spatial mixing function (HRTF), a pan mix and a mono mix. As discussed in detail above, claim 1 requires that the user input select between the different mixes, not just the placement of other speakers in a spatial mix. It is therefore submitted that claims 1 and 16 are patentably distinguishable over the prior art and allowance of these claims is requested.

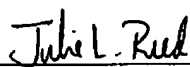
With regard to claims 2 and 17, while Connor discloses a conference bridge, the combination of references does not show, teach or suggest a conference bridge in which a user input is used to select between the different mixes already applied to the audio stream. It is therefore submitted that claims 2 and 17 are patentably distinguishable over the prior art and allowance of these claims is requested.

No new matter has been added by this amendment. Allowance of all claims is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Customer No. 20575

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.

  
\_\_\_\_\_  
Julie L. Reed  
Reg. No. 35,349

MARGER JOHNSON & McCOLLOM, P.C.  
1030 SW Morrison Street  
Portland, OR 97205  
503-222-3613